

TAMMY Y. KANESHIRO 6287  
Regulated Industries Complaints  
Office  
Department of Commerce and Consumer  
Affairs  
State of Hawaii  
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DEPT. OF COMMERCE  
AND CONSUMER AFFAIRS

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HEARINGS OFFICE

Attorney for Department of Commerce  
and Consumer Affairs

ACTIVITY DESK PROGRAM  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
STATE OF HAWAII

In the Matter of the	)	ADP 2003-5-L
Activity Desk Registration of	)	
Holo Holo Express, LLC	)	SETTLEMENT AGREEMENT AFTER
	)	FILING OF PETITION FOR
Respondent.	)	DISCIPLINARY ACTION AND
	)	PROGRAM'S FINAL ORDER
	)	
	)	
	)	

HEARINGS OFFICE

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DEPT. OF COMMERCE  
AND CONSUMER AFFAIRS

SETTLEMENT AGREEMENT AFTER FILING OF PETITION  
FOR DISCIPLINARY ACTION AND PROGRAM'S FINAL ORDER

Respondent HOLO HOLO EXPRESS, LLC (hereinafter  
"Respondent"), and the Department of Commerce and Consumer  
Affairs, through its Regulated Industries Complaints Office  
(hereinafter "RICO"), through its undersigned attorney, enter  
into this Settlement Agreement on the terms and conditions set  
forth below.

A. UNCONTESTED FACTS

1. Respondent is registered by the Activity Desk Program  
(hereinafter the "Program") as an activity desk under  
registration number 515. Said registration was issued on  
November 3, 1999, expired on December 31, 2003, and was forfeited

on June 30, 2004.

2. The last known address for Respondent was 4300 Waialae Avenue, #B1003, Honolulu, Hawaii 96816. The last known address for Cindy Y.S.L. Takahashi, member of Respondent, is 1195 Lunalilo Home Road, Honolulu, Hawaii 96825.

3. On October 4, 2004, RICO filed a Petition for Disciplinary Action Against HOLO HOLO EXPRESS, LLC, alleging that Respondent violated Hawaii Revised Statutes (hereinafter "HRS") §468M-4 and 436B-19(17) (hereinafter "Petition").

4. The Program has jurisdiction over the subject matter herein and over the parties hereto.

B. REPRESENTATIONS BY RESPONDENT

1. Respondent is fully aware that it has the right to be represented by an attorney of its choosing in this matter and voluntarily waives that right.

2. Respondent enters into this Settlement Agreement freely and voluntarily and under no coercion or duress.

3. Respondent has been informed of its right to have a hearing to determine the issues in RICO's investigation. Pursuant to HRS §91-9(d), Respondent voluntarily waives its right to a hearing and agrees to a disposition of this case in accordance with the terms and conditions of this Settlement Agreement.

4. Respondent being at all times relevant herein registered as an activity desk by the Program acknowledges that it is subject to penalties including but not limited to, revocation, suspension or limitation of its license and civil fines, if the allegations in the Petition are proven at hearing.

5. Respondent admits to the veracity of the allegations set forth in the Petition and that its acts constitute violations of the following statutes and/or regulations governing the conduct of activity desks registered in the State of Hawaii: HRS §§468M-4 (payment due within 30 days) and 436B-19(17) (violating laws and rules).

6. Respondent enters into this Settlement Agreement as a compromise of the claims and to conserve on the expenses of proceeding with an administrative hearing on this matter.

7. Respondent agrees that this Settlement Agreement is intended to resolve the issues raised in RICO's investigation in RICO Case No. ADP 2003-5-L.

C. TERMS OF SETTLEMENT

1. Voluntary Surrender of License. Respondent agrees to the voluntary surrender of its activity desk registration, for a period of five (5) years.

Said surrender shall become effective immediately upon the approval of this Settlement Agreement by the Program. Respondent shall turn in all indicia of its registration to the Executive Officer of the Program within ten (10) days after receipt of notice that this Settlement Agreement has been approved. Upon completion of the five-year period, Respondent understands that it must apply to the Program for reinstatement pursuant to and subject to the requirements and conditions set forth in HRS §436B-21.

2. Restitution. Respondent agrees to pay restitution in the amount of ONE THOUSAND ONE HUNDRED EIGHTY-ONE AND 65/100

DOLLARS (\$1,181.65) to Maui Classic Charters, Inc., the payment of which shall be due as follows: \$590.83 shall be due on February 15, 2005 and \$590.82 shall be due on March 15, 2005. Said payments shall be made by **cashier's check or money order made payable to "Maui Classic Charters, Inc."** and mailed to the Regulated Industries Complaints Office, Attn: Tammy Y. Kaneshiro, Esq., 235 S. Beretania Street, 9<sup>th</sup> Floor, Honolulu, Hawaii 96813. The mailing should be postmarked by the aforementioned due dates to be in compliance with this Settlement Agreement.

3. Failure to Comply with Settlement Agreement. If Respondent fails to fully and timely pay the restitution or comply with the terms as set forth in paragraph(s) C.1. and C.2. above, Respondent's registration shall be automatically revoked for a period of five (5) years upon RICO's filing of an affidavit with the Program attesting to such failure. In case of such revocation, Respondent shall turn in all indicia of its licensure to the Executive Officer of the Program within ten (10) days after receipt of notice of the revocation. Upon completion of the revocation period, Respondent understands that it will need to apply to the Program for reinstatement pursuant and subject to the requirements and conditions set forth in HRS §436B-21.

4. Possible further sanction. The Program, at its discretion, may pursue additional disciplinary action as provided by law to include further fines and other sanctions as the Program may deem appropriate if Respondent violates any provision of the statutes or rules governing the conduct of activity desks in the State of Hawaii, or if Respondent fails to abide by the

terms of this Settlement Agreement.

5. Approval of the DIRECTOR. Respondent agrees that, except for the representations, agreements and covenants contained in Paragraphs C.6., C.7., C.8. and C.9. below, this Settlement Agreement shall not be binding on any of the parties unless and until it is approved by the Program.

6. No Objection if Program Fails to Approve. If the Program does not approve this Settlement Agreement, does not issue an order pursuant thereto, or does not approve a lesser remedy, but instead an administrative hearing is conducted against Respondent in the Program's usual and customary fashion pursuant to the Administrative Procedure Act, Respondent agrees that neither it nor any attorney that it may retain, will raise as an objection in any administrative proceeding or in any judicial action, to the Program's proceeding against it on the basis that the Program has become disqualified to consider the case because of its review and consideration of this Settlement Agreement.

7. Any Ambiguities Shall be Construed to Protect the Consuming Public. It is agreed that any ambiguity in this Settlement Agreement is to be read in the manner that most completely protects the interests of the consuming public.

8. No Reliance on Representations by RICO. Other than the matters specifically stated in this Settlement Agreement, neither RICO nor anyone acting on its behalf has made any representation of fact, opinion or promise to Respondent to induce entry into this Settlement Agreement, and Respondent is not relying upon any

statement, representation or opinion or promise made by RICO or any of its agents, employees, representatives or attorneys concerning the nature, extent or duration of exposure to legal liability arising from the subject matter of this Settlement Agreement or concerning any other matter.

9. Complete Agreement. This Settlement Agreement is a complete settlement of the rights, responsibilities and liabilities of the parties hereto with respect to the subject matter hereof; contains the entire agreement of the parties; and may only be modified, changed or amended by written instrument duly executed by all parties hereto.

IN WITNESS WHEREOF, the parties have signed this Settlement Agreement on the date(s) set forth below.

DATED: Honolulu, Hawaii, JAN 26 2005.

HOLO HOLO EXPRESS, LLC

By [Signature]  
Its OPERATION MANAGER

DATED: Honolulu, Hawaii, 1/27/05.

[Signature]  
TAMMY Y. KANESHIRO  
Attorney for Petitioner

IN THE MATTER OF THE ACTIVITY DESK REGISTRATION OF HOLO HOLO EXPRESS, LLC;  
SETTLEMENT AGREEMENT AFTER FILING OF PETITION FOR DISCIPLINARY ACTION AND  
PROGRAM'S FINAL ORDER; ADP 2003-5-L

REVIEWED AND RECOMMENDED FOR CONSIDERATION:



\_\_\_\_\_  
CRAIG H. UYEHARA  
Hearings Officer

FEB -9 2005

\_\_\_\_\_  
DATE

APPROVED AND SO ORDERED:

ACTIVITY DESK PROGRAM  
STATE OF HAWAII



\_\_\_\_\_  
MARK E. RECKTENWALD  
Director of the Department of  
Commerce and Consumer Affairs

FEB 16 2005

\_\_\_\_\_  
DATE

STATE OF HAWAII )  
 ) SS.  
CITY AND COUNTY OF HONOLULU )

On this 26 day of January, 2005, before me personally appeared Cindy Y.S.L. Takahashi, in her capacity as operation manager of Holo Holo Express, LLC, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed.



Name: **STACIE L. IKEI**  
Notary Public, State of Hawaii

My commission expires: 11/6/06

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